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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,504	02/11/2002	Pat Muller		5984

20606 7590 04/25/2003

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401 WEST STATE STREET  
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ROCKFORD, IL 61101

EXAMINER

GRILES, BETHANY L

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 04/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/073,504	MULLER, PAT 
	Examiner Bethany L. Griles	Art Unit 3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 6 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 07 March 2003.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-26 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-26 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments, see Amendment A, filed 3/7/2003, with respect to the rejection(s) of claim(s) 1-8 under Farkas in view of Davies-Ross have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of the updated search results.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 5, 7, 8, 9, 10, 12, 14, 16, 17, 18, 20, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Schaefer (US 1,934,951).

Regarding claims 1, 9, and 17, Schaefer discloses a body having a longitudinally extending center portion 4; first and second opposing free ends (fig 6), with transversely extending openings 16 and first, second, and third posts 10 projecting rearwardly from the backside.

Regarding claims 3, 12, 20, Schaefer discloses that the posts are of equal length 10.

Regarding claims 5 and 14 and 22, Schaefer discloses that the body is generally planar with front and back sides parallel to one another (fig 6).

Regarding claims 7 and 16, Schaefer discloses that the upper and lower surfaces are rounded when viewed along a transverse axis (fig 6).

Regarding claim 8, Schaefer discloses that the first and second posts are longitudinally aligned with one another (fig 6).

Regarding claims 10 and 18, Schaefer discloses that the first and second posts are located oppositely with respect to the third post (fig 6).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 2, 4, 6, 11, 13, 15, 19, 21, 23, 24, 25, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schaefer.

Regarding claims 2, 11, 19, and 25 Schaefer does not disclose that the body is made of integrally molded plastic.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to mold the body of integrally molded plastic, as this would make the unit light and resilient, while keeping manufacturing costs down.

Regarding claims 4, 13, and 21, Schaefer does not disclose that the posts have rounded free ends.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the posts with rounded free ends in order to avoid injury to the user.

Regarding claims 6, 15, and 23 Schaefer does not disclose that the center portion is narrower than the first and second free ends.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the center portion narrower, as this would make the unit lighter in weight and more aesthetically pleasing.

Regarding claim 24, Schaefer discloses that the upper and lower surfaces are rounded when viewed along a transverse axis (fig 6).

Regarding claim 26, Schaefer discloses first, second, and third posts projecting rearwardly from the backside of the body offset longitudinally from the first and second posts (fig 6).

Examiner recommends that the precise shape of the structure should be claimed, including a narrow center having two ends with two lobes. Also, the claims should describe the triangular orientation of the posts.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bethany L. Griles whose telephone number is 703.305.1839. The examiner can normally be reached on Monday through Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703.308.2574. The fax phone numbers for the organization where this application or proceeding is assigned are 703.306.4196 for regular communications and 703.305.3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.306.5771.

*Robert P. Swiatek*  
ROBERT P. SWIATEK  
PRIMARY EXAMINER  
ART UNIT 3643

Bethany L. Griles  
Examiner  
Art Unit 3643

blg  
April 17, 2003

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